IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 19560 of 1996

Between:

M. Rama Sundari W/o.late K.C.Bharathi
R/o.Santoshnagar Hyderabad

..... PETITIONER

AND

1. The Vice Chairman & Housing Commissioner,

A.P.Housing Board, "Gruhakalpa"
Mukarramjahi Road, Hyderabad
2. Assistant Estate Officer Western Division
Office of the Executive Engineer (Housing)

A.P. Housing Board, Kukatpally, Hyderabad

.....RESPONDENTS

The Court made the following:

ORDER:

On her application to purchase of a flat constructed by the A.P. Housing Board of which the first respondent is the Vice Chairman and the second

respondent is Assistant Estate Officer, petitioner received a communication dated 06.09.1986 that flat No.L/79/1/FF/IV in Phase No.2839 at Kukatpally is allotted to her and was asked to make payments as mentioned therein and petitioner made those payments and had mortgaged the flat allotted to her to the President of India for securing a loan from the Central Government, for which first respondent, through the letter dated 21.10.1986 undertook that if the property i.e. House No.L/79/1/FF/IV-phase No.2839 at Kukatpally allotted to the petitioner were to be brought to sale by the A.P. Housing Board for any reason within five years from the date of allotment, option to re-purchase the said property in terms of the agreement for sale would be exercised and the outstanding amount of loan would be repaid. Later, through the a communication dated 22.05.1996, petitioner was informed that Flat No.1 in Block No.79, Phase-IV, Kukatpally, mentioned in the allotment intimation letter addressed to her was due to oversight, when in fact her flat number is 7 in Block No.79 in Phase-4, Kukatpally. Questioning the said letter, petitioner filed this writ petition. While admitting this petition, an interim direction not to allot Flat No.1 to any body was passed. That order was modified later after respondents filed a petition to vacate stay.

2. The case of the respondents, as seen from the counter affidavit filed on their behalf, is that allotment of flat was made by draw of lots and that in that draw petitioner was allotted flat No.7 and due to a typographical or clerical error, flat No.1 instead of flat No.7 was mentioned therein and since petitioner paid only 26,000/- and did not turn up to take possession of the flat allotted to her after fulfilling the necessary formalities, she is not entitled to any relief.

3. Petitioner filed a reply affidavit.

4 . The contention of the learned counsel for the petitioner is that since petitioner was intimated that she was allotted a flat in the ground floor, she obtained a loan from the Central Government for purchase of the flat, under a bona fide belief that her flat is in the ground floor and it is only after the respondents filed a petition for vacating the stay contending that the flat in the

ground floor was already allotted and that the flat number in the communication sent to the petitioner is a mistake and that a new phase of flats are under construction, she sought for allotment of a flat in the ground floor in the left over flats under construction and so an interim order was given to reserve one flat in the ground floor and in view of the facts of the case, petitioner who was put to any amount of hardship by the respondents, may be ordered to be remedied by the respondents by directing them to allot a ground floor flat in the extra flats that are being constructed in the phase-4.

5. No representation on behalf of the respondents.

6. Since the petitioner was informed that she was allotted a flat in the ground floor and since she, in fact, she mortgaged that property to the President of India and since long time thereafter only respondents informed the petitioner that there was a mistake in the letter of allotment regarding the flat number, and since a ground floor flat in the new flats being constructed in phase-4 is ordered to be reserved, that reserved flat can be ordered to be allotted to the petitioner.

7. Hence, the writ petition is disposed of with a direction to the respondents to allot a ground floor flat in the new flats under construction in phase-4, reserved by virtue of the interim orders passed by this Court, to the petitioner, subject to her fulfilling the required, formalities and payments as per the terms and conditions stipulated. No order as to costs.

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(C.Y. SOMAYAJULU, J)

Date: 01.09.2005

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